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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 15th September 2006

No. 8377—li/1(S)-9/2004-L. E.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 18th August 2006 in Industrial Dispute Case No. 1/2005 of the Presiding Officer, Labour Court, Sambalpur to whom the industrial disputes between the management of M/s Dhama Service Co-operative Society Ltd., Dhama, Sambalpur and their workman Shri Kabindra Mohananda, Ex-Night Watchman, Son of Jai Mohananda, Office of Dhama Service Co-operative Society Ltd., Dhama, Sambalpur was referred for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE COURT OF THE PRESIDING OFFICER, LABOUR COURT
SAMBALPUR

INDUSTRIAL DISPUTE CASE No. 1 OF 2005
Dated the 18th August 2006

Present :

Shri P. K. Mohapatra, LL. B.
Presiding Officer, Labour Court
Sambalpur.

Between :

The Management of
M/s Dhama Service Co-operative
Society Ltd., Dhama, Sambalpur.

.. First Party—Management

And

Their workman
Shri Kabindra Mohananda
Ex-Night Watchman
S/o Late Jai Mohananda
Office of the Dhama Service
Co-operative Society Ltd., Dhama, Sambalpur.

.. Second Party—Workman

Appearances :

For the First Party—Management	.. None
For the Second Party—Workman	.. Self

AWARD

1. This case arises out of the reference made by the Government of Orissa, Labour & Employment Department under Sections 10 & 12 of the Industrial Disputes Act, 1947 vide memo No. 1107 (5)-L.E., dated the 1st February 2005 for adjudication of the dispute scheduled below :—

“Whether the refusal of employment of the workman Shri Kabindra Mohananda by the employer M/s Dhama Service Co-operative Society Ltd., with effect from the 30th June 2001 is legal and/or justified ? If not what relief the workman is entitled ?”

2. The workman in his statement of claim has averred that he was working as a Night Watchman in the management society and without any good cause he was removed from service and while taking the extreme action against him the management did not conduct an enquiry and his allegations against the Secretary was also not addressed properly and by taking note of the above position, he may be reinstated in service and the entire back wages may be paid to him.

3. As it appears the wokman after his retrenchment had approached the Labour Office and then a conciliation proceeding was taken up, but nothing fruitful could be achieved and then the Conciliation Officer presented a failure report to the Government and after assessing the entire position the above reference was made to this Court.

4. After receiving the statement of claim the management side was noticed and on the 25th April 2005 the management side transmitted an adjournment petition for filing written statement. Thereafter the matter was adjourned to the 10th May 2005 and on that day the management side have filed written statement. On perusal of the order sheets of the case record it is forthcoming that on the 3rd July 2006 the management side prayed for appointing an Advocate, but the same was not allowed as the workman has contested the same. Thereafter on the 16th August 2006 the management side is set *ex parte* and the *ex parte* evidence of the workman is recorded. In the body of the evidence the workman has stated about the illegal actions taken by the management and prayed for reinstatement in service with full back wages. According to the workman while removing him they have not given anything in writing and also they have not paid his dues. By looking to the unchallenged testimony of the workman there is no other alternative to allow the reference in favour of the workman. Hence the following award.

AWARD

The reference is answered on *ex parte* basis against the management and in support of the workman. The refusal of employment to the workman with effect from the 30th June 2001 is illegal. The management is directed to reinstate the workman in service with full back wages.

Dictated and corrected by me.

P. K. MOHAPATRA
18-8-2006
Presiding Officer
Labour Court, Sambalpur

P. K. MOHAPATRA
18-8-2006
Presiding Officer
Labour Court, Sambalpur

By order of the Governor
N. C. RAY
Under-Secretary to Government